



POLICE DEPARTMENT

March 31, 2022

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In the Matter of the Charges and Specifications :

- against - :

Police Officer Shakara President :

Tax Registry No. 956181 :

42 Precinct :

Case No.

2021-23350

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Josh Kleiman
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: David H. Green, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Michael Martinez, Esq.
Worth, Longworth and London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Said Police Officer Shakara President, while assigned to the 42nd Precinct, on or about multiple occasions between March 6, 2020 and January 10, 2021, wrongfully made unauthorized queries on Department computer systems and confidential databases, which were unrelated to the official business of the Department.

P.G. 219-14, Page 1, Paragraph 2

DEPARTMENT COMPUTER
SYSTEMS –
DEPARTMENT PROPERTY

2. Said Police Officer Shakara President, while assigned to the 42nd Precinct, on or about multiple occasions in May 2020, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully sent or caused to [be] sent inappropriate text messages to two (2) other Uniformed Members of the Service, causing annoyance or alarm.

P.G. 203-10, Page 1, Paragraph 10

PUBLIC CONTACT –
PROHIBITED CONDUCT

3. Said Police Officer Shakara President, while assigned to the 42nd Precinct, on or about February 4, 2021, wrongfully made false or misleading statements regarding one (1) or more material facts during an official Department interview conducted by members of the Patrol Borough Manhattan North - Investigations Unit, regarding her having sent or caused to be sent inappropriate text messages to two (2) other Uniformed Members of the Service.

P.G. 203-08, Page 1, Paragraph 1 & 2

FALSE OR MISLEADING
STATEMENTS
GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 3, 2022. Respondent, through her counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, the Tribunal recommends a penalty consisting of the forfeiture of 30 vacation days, 30

suspension days, and one-year dismissal probation. I further recommend that Respondent be directed to participate in Department counseling.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that in May 2020 she was living with Detective Frank.¹ The two had been in an intimate relationship for five years. She testified that the couple had suffered a miscarriage and were going through relationship problems related to infidelity. Respondent admitted to looking through Frank's phone and noticing an inappropriate exchange between him and a female officer ("Police Officer Smith").² Respondent testified that due to her and Frank's history, she believed he was cheating on her with Officer Smith. (Tr. 25-26)

Respondent admitted to downloading a texting application, "TextNow," in order to anonymously send text messages to both Frank and Officer Smith. In one message Respondent sent to Smith, she stated, "If his beautiful girlfriend finds out anything about your old ass she will destroy you" (Dept. Ex. 1 at 2). Respondent testified that she was referring to herself when referring to "his beautiful girlfriend." She also threatened to send compromising photos to Officer Smith's husband (*Id.*). Respondent testified that it was her intent to scare Officer Smith and to end her relationship with Frank. (Tr. 39-41)

Officer Smith subsequently reported the messages to her local precinct and the Internal Affairs Bureau. Frank blocked the number after receiving several messages but made no reports or notifications concerning the messages. (Tr. 44)

On February 4, 2021, at an official Department interview concerning the text messages, Respondent denied sending the messages, denied having a TextNow account, and denied

¹ The Tribunal has chosen to use aliases for Respondent's boyfriend and the police officer she believed he was having an affair with. Their identities are known to the Department.

² Detective Frank and Police Officer Smith are members of the service, who, at the time, served in the same command.

knowing Officer Smith. Respondent testified that she was [REDACTED] at the time of the interview and under a lot of stress. She further explained that she was concerned about exposure to Covid-19 [REDACTED] and wanted the interview to be over quickly, so she provided answers that she believed would hasten the end of the interview. Finally, Respondent stated that she denied the allegations because she was embarrassed to talk about things that were “so personal.” Respondent told the Tribunal that she is aware of the consequences of making misleading statements and regrets her actions. (Tr. 30-32)

In a separate incident, Respondent admitted making unauthorized queries using a Department database between March 6, 2020 and January 10, 2021. Respondent explained that she frequently used Frank’s car and testified that, one day while driving, she had noticed that Frank’s EZ Pass was improperly placed in his vehicle, causing her to worry about tickets for possible unpaid tolls while she was driving his vehicle. Respondent did not want to mention the matter to Frank, so she searched his license plate in a database containing license plate reader information in order to look at photographs taken when his vehicle passed through tolls. While conducting these inquiries, she noticed another vehicle registered to him that she did not recognize. Respondent then ran the license plate of the other car and discovered it was owned by a woman Frank had previously been involved with. (Tr. 32-34)

Upon questioning by the Tribunal, Respondent was unable to explain how a search of a license plate reader database would have helped her discover whether there were outstanding tickets for unpaid tolls. She testified that she did not have the EZ Pass account information that would have permitted her to access Frank’s EZ Pass records. (Tr. 54)

The presumptive penalty for computer misuse under the Department’s Disciplinary Guidelines is 10 penalty days. Respondent, however, has engaged in this misconduct before. In

July 2019, Respondent forfeited 20 vacation days for computer misuse and criminal association (*Disciplinary Case No. 2017-18195* [July 16, 2019]). In that case, Respondent pled guilty to conducting multiple background checks in 2017 on her then-boyfriend, discovering that he had a criminal record. Despite this information, she continued to associate with the boyfriend for approximately three more months.

Respondent's disciplinary history involving the same misconduct, resolved less than a year prior to the first date on which Respondent conducted the unauthorized database inquiries in this case, is highly concerning. Further, the Tribunal does not credit Respondent's testimony at trial as to why she conducted the inquiries at issue here. Department license plate reader information does not track whether tolls are paid. It is more likely that Respondent conducted these inquiries to track her boyfriend's movements.

Pursuant to the instructions for the application of progressive discipline established by the Department's Disciplinary Guidelines, Respondent's commission of a second act involving the same misconduct where the prior act resulted in a penalty of more than 15 days should result in a penalty for the current misconduct of 20-30 vacation days and the imposition of dismissal probation. Given Respondent's brazen actions shortly after being disciplined for the same misconduct and Respondent's less than credible trial testimony concerning why she conducted the unauthorized searches, the Tribunal finds that an aggravated penalty consistent with the Department's progressive discipline guidelines is warranted. Accordingly, in connection with Specification 1, the Tribunal finds the imposition of 20 penalty days and one-year dismissal probation to be reasonable under the circumstances.

In connection with Specification 2, the Disciplinary Guidelines provide for a range of penalties associated with "Non-physical Act(s) of Domestic Violence." These acts include both

verbal threats and harassment, and carry a presumptive penalty of the forfeiture of 30 vacation days. Respondent testified that her intent in sending the text messages was to scare Officer Smith (Tr. 40), who she believed was romantically involved with her boyfriend. The Tribunal finds the wording and manner of the text messages Respondent sent to Officer Smith, including, “[i]f his beautiful girl friend finds out anything about your old ass she will destroy you” (Dept. Ex. 1 at 2), to be plainly threatening in nature. Officer Smith was concerned enough to report the matter to her local precinct and the Department. While the Tribunal credits Respondent’s testimony that she was emotionally distressed after suffering a miscarriage and discovering what she believed to be evidence of infidelity, domestic incidents are presumed to involve heightened emotional states and, as such, compromised emotions are ordinarily not alone enough to warrant mitigation in such cases.

Nevertheless, under the totality of the circumstances, the Tribunal finds the presumptive penalty of 30 penalty days to be excessive in connection with Specification 2. Respondent’s threatening behavior was limited to text messages that contained a conditional threat, lacking any immediacy that would cause the average person to fear imminent bodily harm. Furthermore, the conduct here is of a less serious nature than that involved in prior cases involving non-physical acts of domestic violence (*see, e.g., Disciplinary Case No. 2017-18078* [Nov. 15, 2018] [Eight-year police officer, with one prior disciplinary adjudication, negotiated a penalty of 30 vacation days and one-year dismissal probation for (i) appearing at his ex-girlfriend’s home and refusing to leave after being repeatedly told to leave, (ii) following his ex-girlfriend and her boyfriend in his car for several minutes while shouting profanities at them and repeatedly calling her on the phone causing her annoyance and alarm, (iii) driving his vehicle in front of the vehicle being driven by his ex-girlfriend’s boyfriend, and (iv) engaging in a shouting match with a verbal

altercation with said boyfriend after the collision.]; *Disciplinary Case No. 2014-12629* [Aug. 13, 2015] [Nine-year police officer, with one prior disciplinary adjudication, negotiated a penalty of 25 vacation days, one-year dismissal probation and cooperation with counseling for engaging in a verbal dispute via telephone with his former girlfriend and profanely threatening her with bodily harm, stating, “I am going to disfigure your face to the point no one is going to recognize you . . . You think I’m scared of jail bitch . . . I know where you live at. I will be at your house. You don’t give a fuck about my job. You are at the point where you are not going to be recognizable bitch . . .”]). Accordingly, in connection with Specification 2, the Tribunal finds the imposition of 20 penalty days and cooperation with ordered counseling to sufficiently address the charged misconduct.

Respondent’s conduct in connection with Specification 3 is also highly concerning. During a Department interview, Respondent blatantly denied sending text messages to Officer Smith using the TextNow app. In short, Respondent lied. The Department, nevertheless, took the position at Respondent’s mitigation hearing that Respondent had only made misleading statements, not false statements.³ The presumptive penalty under the Department’s Disciplinary Guidelines for intentionally making misleading official statements is 30 penalty days and one-year dismissal probation.

The Disciplinary Guidelines further delineate certain mitigating factors to be considered when weighing an appropriate penalty for misleading statements, one of which appears to apply squarely to the instant misconduct:

Misconduct itself is not a presumptive termination act and the nature of the statement is such that it was made with the intent to avoid embarrassment (particularly in the context of interpersonal relationships or health conditions).

³ The transcript of Respondent’s official Department interview was not made part of the record.

(Disciplinary Guidelines at 34). A misleading statement is not a “presumptive termination act” and the Tribunal credited Respondent’s testimony at trial that she was embarrassed to discuss matters she found to be highly personal. Embarrassment alone is not enough to constitute a mitigating factor because it is presumed that the average person is embarrassed when confronted with obvious misconduct. Rather, the distinguishing factor that the Disciplinary Guidelines seeks to acknowledge here is that misleading and inaccurate statements concerning one’s personal life and personal health are markedly different than misleading and inaccurate statements concerning job-related functions and other matters of public concern. Here, Respondent believed that the person she hoped to start a family with was cheating on her with Officer Smith. Furthermore, at the time of her official Department interview Respondent was [REDACTED]. The text messages Respondent denied writing concerned events in the personal lives of the three officers. Under these unique circumstances, a mitigated penalty is warranted. Accordingly, in accordance with the Disciplinary Guidelines, the Tribunal finds the forfeiture of 20 penalty days in connection with Specification 3 to be reasonable under the circumstances.

Respondent has repeatedly allowed problems in her personal life to compromise her performance as a member of the Department. Whether by way of multiple Department computer misuses, misleading investigators at an official Department interview, or threatening fellow members of the service, the lack of self-control Respondent has displayed hews closely to the termination-line, raising serious questions as to the propriety of her continued employment. It is only because the Tribunal credits Respondent’s testimony as to the stresses, of a personal nature, she was facing at the time of the charged misconduct that a penalty short of separation is being recommended. Such leniency in connection with Respondent, however, is unlikely to be entertained again.

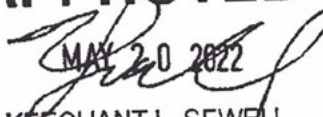
The Department has recommended that Respondent's penalty be served with a combination of vacation days and suspension days along with dismissal probation. (Tr. 66-67) The Tribunal concurs. Accordingly, I recommend that Respondent be DISMISSED from the New York City Police Department, but that this dismissal be held in abeyance for a period of one year, pursuant to Administrative Code § 14-115 (d), during which time she is to remain on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. I further recommended that Respondent be suspended for 30 days and forfeit 30 vacation days, for a composite total of 60 penalty days. Finally, I recommend the she be ordered to participate in Department counseling.

Respectfully submitted,



Josh Kleiman
Assistant Deputy Commissioner Trials

APPROVED



MAY 20 2022
KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER SHAKARA PRESIDENT
TAX REGISTRY NO. 956181
DISCIPLINARY CASE NO. 2021-23350

Respondent was appointed to the Department on January 8, 2014. On her three most recent performance evaluations, she twice received an overall rating of "Exceeds Expectations" in 2019 and 2021 and was rated as "Exceptional" in 2020. She has been awarded one medal for Excellent Police Duty.

In 2019, Respondent forfeited 20 vacation days after pleading guilty to conducting multiple unauthorized queries using Department databases and associating with a person engaged in criminal activity. In connection with that case, Respondent was placed on Level 1 Discipline Monitoring from May 2018 to August 2019, which was subsequently upgraded to Level 2 Discipline Monitoring from August to November 2019.

In connection with the instant matter, Respondent was placed on Level 1 Discipline monitoring on June 30, 2021; that monitoring remains ongoing.

For your consideration.

Josh Kleiman
Assistant Deputy Commissioner Trials